

**St. Luke's Health Care Association, Inc. and Local
876, United Food and Commercial Workers
International Union, AFL-CIO, Petitioner.**
Case 7-RC-20093

September 16, 1993

ORDER DENYING REVIEW

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

The National Labor Relations Board has considered the Employer's request for review of the Regional Director's Decision and Direction of Election (of which pertinent portions are attached). The Employer's request for review is denied as it raises no substantial issues warranting review.¹

¹ Review was requested by the Employer of the Regional Director's exclusion of the Employer's groundskeepers from the petitioned-for skilled maintenance unit.

APPENDIX

Decision and Direction of Election

The Petitioner seeks to represent a unit of all full-time and regular part-time skilled maintenance employees, including boiler operators, general maintenance employees, maintenance mechanics, biomedical technicians, and maintenance mechanic/carpenters employed by the Employer at its facility located at 700 Cooper Street, Saginaw, Michigan; but excluding safety specialists, office clerical employees, guards and supervisors as defined in the Act.³ The Employer and Petitioner stipulated that the employees holding positions in the above described job classifications should be eligible to vote in any election ordered herein.

The parties disagree, however, as to the unit placement of the groundskeeper and lead groundskeeper positions.⁴ The Employer asserts that the groundskeepers and lead groundskeeper perform duties which fall into the category of skilled maintenance and share a sufficient community of interest with the remainder of the unit sought by the Petitioner to warrant inclusion therein. Contrariwise, Petitioner contends that this position does not necessitate the type of skills utilized by employees in a skilled maintenance unit, and fur-

ther, that the groundskeepers do not share a sufficient community of interest with the remaining classifications of skilled maintenance employees and should therefore be excluded.

There is no history of collective bargaining involving the unit at issue herein. The Employer's health care operations are carried out primarily at two buildings located in relatively close proximity, one at 700 Cooper Street (referred to as the "North Campus" facility), the other at 515 North Michigan Avenue (referred to as the "South Campus" facility). These combined facilities consist of a total of approximately 352 beds; 285 located at the North Campus facility, and 67 located at South Campus. Additionally, the Employer operates a free standing ambulatory surgery center and professional office building at 800 Cooper Street, and a free standing outpatient service center at 600 Irving, also located nearby.

The Employer's operation is divided into several administrative departments. Most relevant to the instant proceeding is the engineering department, which is responsible for the physical plant and grounds of the facility, as well as related maintenance and preventative maintenance functions. Within the department are three separate divisions: security, biomedical, and maintenance. All classifications of employees involved herein, including the groundskeepers, are employed in the maintenance division except for the biomedical technicians who work in the biomedical division. Ultimately responsible for the operation of the engineering department is the director of engineering, Timothy Tinney. Reporting directly to Tinney are the security manager, safety specialist, and biomedical manager. All maintenance division staff, which include two maintenance foremen, the lead boiler operator, and lead groundskeeper, report directly to Mark Bauer, assistant director of engineering, who in turn also reports to Tinney. Bauer has overall responsibility for the maintenance division of the engineering department.

The two maintenance foremen, Harvey Paul and Bill Card, direct the day-to-day functions of the maintenance mechanics, maintenance mechanic/carpenter, and general maintenance employees, while the biomedical techs, boiler operators, and groundskeepers are under the separate direction of the biomedical manager, lead boiler operator (or boiler operator II), and lead groundskeeper, respectively. The payscale of the maintenance department employees ranges from a low of \$7.50 per hour, the lowest rate for a groundskeeper, to a high of \$13.26, the highest rate for a maintenance mechanic. The groundskeepers' top rate of pay is about \$9.80 per hour. The pay of the general maintenance employees ranges from about \$8.50 to \$10.80 per hour. The biomedical techs' pay range is from about \$12.50 to \$15 per hour. Only the biomedical techs and boiler operators are required to possess a specific license or certification as a prerequisite for employment with the Employer. The general maintenance employees, maintenance mechanics, and boiler operators staff the Employer's operations 24 hours a day on a three-shift schedule. First shift hours are 7 a.m. to 3:30 p.m., second-shift hours are 3 p.m. to 11:30 p.m., and third-shift hours are from 11 p.m. to 7:30 p.m. The maintenance mechanic/carpenter works only the first shift. Biomed techs work from about 8 a.m. to 4 p.m., and the groundskeepers work from 6 a.m. to 2:30 p.m.

³ While the parties did not enter into an explicit stipulation, the above-unit, based on the record, comports with the requirements of Sec. 103.30(f) of the Board's Rules and Regulations regarding appropriate units in acute-care hospitals.

⁴ During the course of adducing evidence relevant to the unit placement issue, a question arose regarding the supervisory status of employees occupying the lead groundskeeper and boiler operator II positions. In an effort to avoid delay of the proceedings, the parties stipulated and agreed that in the event that I found in favor of the inclusion of the groundskeeper classification, to allow the lead groundskeeper to vote at the election subject to challenge by any party. The parties similarly stipulated that the employee holding the position of boiler operator II would be allowed to vote—subject to challenge by any party. I hereby adopt those stipulations. The parties stipulated at the hearing that the Employer is engaged in the operation of an acute care hospital, within the meaning of Sec. 103.30(f) of the Board's Rules and Regulations.

The maintenance mechanics at the Employer's facility are responsible for the higher level skilled maintenance tasks including the maintenance, problem diagnosis, and repair of all types of equipment on the Employer's premises. The job description for the general maintenance employees at the Employer's facility provides that such employees shall perform "all general maintenance and limited skilled maintenance work" throughout the Employer's operations and that "maintenance includes preventative measures, repairs and adjustments and other services as required by phone requests and/or maintenance requisitions." The job description for the groundskeeper position provides that the groundskeeper "maintains the external grounds for [the Employer's] facilities by performing lawn maintenance and various landscaping duties, snow and ice removal, and general cleaning." The job description further provides that the groundskeeper "[a]ssists with various interior and exterior general maintenance and other project work [and] [p]erforms preventative maintenance on various groundskeeping tools and equipment."

The job descriptions themselves make clear that the primary function of the groundskeepers is the maintenance and care of the Employer's grounds, which consist of an area of approximately 17 acres, 60–65 of which includes buildings and parking lots. During the winter months, such maintenance entails, for the most part, the prompt removal of snow and ice from the grounds, and the periodic salting of walkways and driveways used by the staff and patients. During the summer months, the groundskeepers are responsible for lawn cutting and related trimming, sprinkler operation and maintenance, pruning, plant bed care, trimming of trees and shrubs, and other landscaping activities. During the autumn months, the grounds crew are similarly responsible for the collection and removal of leaves.

There is little dispute, and indeed common sense would dictate, that the outdoor activities of the groundskeepers during the months from about late April to early November, occupy the majority of their workday. On occasions where they have extra time, the groundskeepers perform limited general maintenance on grounds equipment, consisting mostly of oil changes, cleaning, and blade replacement. The more complicated equipment maintenance is contracted out by the Employer. Additionally, as a result of ongoing construction and renovation of the Employer's facilities, the groundskeepers have, even during the summer months, assisted the general maintenance employees with demolition work, furniture moving, and "pulling" of computer cable throughout the premises.

During the winter months, the groundskeepers often begin their required snow removal and related tasks prior to their normal start time, on an overtime basis, in order to ensure the safety of the grounds for the remainder of the hospital staff. Approximately 20 percent of their workday is occupied by snow removal and grounds related duties. For the remainder of the day, the groundskeepers often assist the general maintenance employees inside the building facilities, performing minor plumbing work such as repairing faucets, unplugging toilets and sinks, and replacing plumbing valves; minor electrical work such as replacing lighting fixtures, and installing electrical outlets in patient rooms; moving furniture, pulling data cable for computer installations, assisting in demolition and cleanup related to building renovation, and

assisting in piping work such as the soldering of water mains and repair of broken water pipes. The groundskeepers have also assisted in the yearly cleaning of the two boilers located at the South Campus building, a task which takes 1 week per boiler to perform.

During the last 5 to 6 years, due to the increased integration of the Employer's operations, several employees hired as groundskeepers have progressed to higher level maintenance job classifications. Employees Tim Coe, Jeff Kinasz, and Matt Brueske, all hired as groundskeepers, currently hold positions as maintenance mechanics. Employee Bob Adkins who originally hired in as a security officer, progressed from a groundskeeper position to his current position in general maintenance. Dennis Kennelly, who hired in as a groundskeeper, progressed to the position of lead groundskeeper, and currently holds a position as a general maintenance employee. Finally, Ken Valley, currently the lead groundskeeper, has held prior positions as a groundskeeper and a general maintenance employee. In effectuating hiring decisions in the maintenance department, including the hiring of groundskeepers, the Employer seeks employees with a wide range of skills, rather than those possessing skills limited to a specific position. In that regard, the majority of employees hired into groundskeeper positions by the Employer during the last 5 years have possessed some experience in, and exposure to, maintenance related skills.

The Board's analysis of collective bargaining in health care units was finalized in the publication of its Final Rule on Collective Bargaining Units in the Health Care Industry, which took effect on April 23, 1991, upon issuance of the Supreme Court's decision in *American Hospital Assn. v. NLRB*, 111 S.Ct. 1539 (1991). The Board's Proposed Rule was published in full at 284 NLRB 1515–1597, in which the Board determined that skilled maintenance employees properly constituted a separate appropriate unit for purposes of collective bargaining. In explaining its analysis regarding the skilled maintenance unit issue, the Board stated:

Evidence from the rulemaking hearings shows that skilled maintenance employees perform functions apart from those of unskilled service, maintenance, and clerical employees in that these employees deal with highly complex and sophisticated systems and equipment. . . . While they occasionally perform routine, unskilled tasks, skilled maintenance employees are generally engaged in the operation, maintenance, and repair of the hospital's physical plant systems, such as heating, ventilation, air conditioning, refrigeration, electrical, plumbing and mechanical. . . . Work on these systems requires abstract skills and knowledge at levels considerably higher than those of other non-professional hospital employees. (284 NLRB at 1557.)

The Board went on to state that skilled maintenance employees are often placed in a separate department, usually the engineering or maintenance department, and are usually separately supervised by supervisors from within their department. In general, they work in maintenance areas. However, the nature of their work necessitates that they perform functions throughout the hospital, and as such, have contact with almost all hospital employees at one time or another. 284 NLRB at 1558. The wage rates for skilled maintenance em-

employees is often reflective of their higher skill level, as they typically earn as much as 25 percent or more than employees in other nonprofessional classifications. 284 NLRB at 1557.

In evaluating whether a particular classification of employees should be included in a skilled maintenance unit, the focus is not on the traditional community of interest standard utilized in industries outside the health care field. Rather, under the Board's Rules, the standard is whether the disputed classification possesses the types of skills, and is required to perform the kinds of job duties common to the other skilled maintenance classifications, at similar skill levels.

As such, although the groundskeepers, during the summer months perform limited functions similar in nature to those of the general maintenance employees, such functions are, for the most part, not of a skilled nature. It is clear that the vast majority of the groundskeepers' time during the period from late April to early November is devoted to groundskeeping activities. The more critical inquiry for purposes of the unit determination herein is whether the activities of the groundskeepers during the winter months of the year require them to possess skills of a level to warrant their inclusion in the skilled maintenance unit petitioned for herein.

In *Jewish Hospital of St. Louis*, 305 NLRB 955 (1991); *Barnes Hospital*, 306 NLRB 201 (1992); and *Ingalls Memorial Hospital*, 309 NLRB 393 (1992), the Board addressed the issue of whether groundskeeping employees should appropriately be included in a skilled maintenance unit. In all three of the above-cited cases, the Board found that such employees need not be included in the respective skilled maintenance units involved. In so finding, the Board focused its analysis on the nature of work performed by the groundskeeping employees, rather than the degree of interaction with the skilled maintenance employees.

The Board in *Barnes*, for example, found that although the groundskeeping employees performed maintenance and repair work on grounds equipment, serviced sprinkler systems, repaired playground equipment and assisted in piping repair work, that such tasks did not require the degree of skill and expertise which would warrant inclusion in a skilled maintenance unit. 306 NLRB at 202. In *Ingalls*, the Board found that although the groundswoker classification required 3 years' experience in construction or general maintenance, and that such employees performed routine maintenance on hospital vehicles and equipment, and minor repair work on the hospital irrigation system, they nevertheless did not perform tasks of a degree of complexity to qualify them to be part of a skilled maintenance unit. 309 NLRB at 394.

In the instant matter, the facts reveal that even during the winter months when the groundskeepers are less preoccupied with tasks related to grounds maintenance, the nature of the "indoor" duties performed by them are not susceptible to interpretation as skilled maintenance tasks. Rather, they are unskilled duties similar to those which might be performed by a general laborer or employee in a service department. Although the performance of certain duties results in some interaction between the groundskeepers and general maintenance employees, and even the overlap of some tasks between the two classifications, there is a definite distinction between the two classifications. The primary duty of the general maintenance employees is to assist the maintenance mechanics in the performance of skilled maintenance tasks, as well as to perform limited tasks of a less skilled or unskilled nature on their own. Conversely, the primary duty of the groundskeepers is the maintenance of the Employer's grounds. When, and if time permits, they may perform some of the same low skill tasks performed by the general maintenance employees. As such, they do not qualify as assistants or helpers to skilled maintenance employees.

Finally, although the groundskeepers' pay scale is close to that of the other maintenance employees, and there is evidence of the progression of several employees from groundskeeper positions to skilled maintenance positions, I do not find those factors persuasive enough under the Board's Rules to mandate inclusion in the skilled maintenance unit herein, in light of the lack of skilled maintenance work performed by the employees in the groundskeeper classification. Accordingly, I will exclude them from the petitioned-for unit of skilled maintenance employees.

5. Based on the record evidence as a whole, I find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time skilled maintenance employees, including boiler operators, general maintenance employees, maintenance mechanics, biomedical technicians, and maintenance mechanic/carpenters employed by the Employer at its facility located at 700 Cooper Street, Saginaw, Michigan; but excluding safety specialists, office clerical employees, guards and supervisors as defined in the Act.⁵

⁵ The parties stipulated to the phraseology for the exclusions.